

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #6	CCRB Case #: 201806386	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/21/2018 6:00 AM	Location of Incident: [REDACTED]	Precinct: 94	18 Mo. SOL 1/21/2020	EO SOL 1/21/2020	
Date/Time CV Reported Tue, 07/24/2018 5:20 AM	CV Reported At: Other City agency	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/06/2018 11:02 AM		
Complainant/Victim	Type	Home Address			
[REDACTED]	[REDACTED]	[REDACTED]			
Witness(es)	Home Address				
[REDACTED]	[REDACTED]				
[REDACTED]	[REDACTED]				
Subject Officer(s)	Shield	TaxID	Command		
1. POM Adolfo Peralta	16753	949465	MTN PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Adolfo Peralta	Force: Police Officer Adolfo Peralta pointed his gun at § 87(2)(b) [REDACTED]			[REDACTED]	

Case Summary

On July 22, 2018, § 87(2)(b) filed the following complaint with 311 via telephone. On July 24, 2018, IAB received this complaint, generating original log #18-28732, which related to an earlier IAB original log #18-28354. On August 6, 2018, the CCRB received this complaint from IAB.

On July 21, 2018, at approximately 6:00 a.m., § 87(2)(b) arrived at his apartment, located at § 87(2)(b), in Brooklyn. At the time, he was temporarily residing at a shelter due to marital issues. He met his wife, § 87(2)(b) in the hallway on the 7th floor and they both entered the apartment. Once inside, he found an off-duty officer, PO Adolfo Peralta of the Midtown North Precinct, inside the apartment. PO Peralta exited the apartment into the hallway. § 87(2)(b) questioned PO Peralta about his presence in the apartment, and PO Peralta responded that he was “on the job.” § 87(2)(b) approached PO Peralta in the hallway to physically assault him and PO Peralta pointed his gun at § 87(2)(b) (**Allegation A: Force, § 87(2)(g)**). PO Peralta lowered his gun and left the building. § 87(2)(b) did not pursue PO Peralta and they had no further interactions.

No summonses were issued and no arrests were made regarding this incident.

No video footage was obtained regarding this incident.

Patrol Borough Manhattan South’s Investigations Unit conducted an investigation into this incident which was closed as unsubstantiated.

Findings and Recommendations

Allegation A – Force: Police Officer Adolfo Peralta pointed his gun at § 87(2)(b)

§ 87(2)(b) stated that after he saw PO Peralta in his apartment, he noticed an object on the right side of PO Peralta’s waistband (BR 01 and BR 02). He was unable to definitively identify the object. In his phone statement, § 87(2)(b) described this object as some sort of holster. In his verified statement, § 87(2)(b) believed the object was a beeper or some other non-threatening item. PO Peralta was wearing a t-shirt, sporty shorts, and sneakers. When § 87(2)(b) questioned PO Peralta about his presence in his apartment, PO Peralta told him several times that he was “on the job.” When § 87(2)(b) approached PO Peralta to physically assault him in the common hallway, PO Peralta took his gun off his waistband and pointed it at § 87(2)(b) for several seconds before he left the 7th floor via elevator.

§ 87(2)(b) provided a phone statement and refused to participate with an in-person interview (BR 03). § 87(2)(b) was in the apartment with PO Peralta before § 87(2)(b) arrived. She stated that, as far as she knew, PO Peralta had no weapon and she felt no bulges or weapons on his person when she hugged him. As she is much shorter than PO Peralta’s and her head reaches his chest, § 87(2)(b) was confident that she would have felt a weapon if there was one in his waistband. § 87(2)(b) arrived at the apartment as PO Peralta was exiting the residence. § 87(2)(b) remained inside her apartment as § 87(2)(b) spoke with PO Peralta in the common hallway, so she could not hear what they discussed. However, when she quickly looked out into the hallway through the open doorway during the incident, she heard PO Peralta tell § 87(2)(b)

to back off because he was a police officer. She saw PO Peralta exit down the stairs, followed by § 87(2)(b). At no point did § 87(2)(b) see PO Peralta take out a gun.

§ 87(2)(b) identified a man sitting in the hallway during the incident as § 87(2)(b). The investigation determined the man's full name to be § 87(2)(b). § 87(2)(b) proved to be unavailable after multiple contact attempts (see IAs for contact attempts).

PO Peralta confirmed his presence at § 87(2)(b)'s apartment (BR 04). He was off duty. On the incident, as PO Peralta attempted to leave the apartment, § 87(2)(b) arrived. PO Peralta wore basketball shorts with no pockets. He had his cellphone, an iPhone X in a black case, tucked into the right side of his waistband. § 87(2)(b) angrily questioned him about his presence in the apartment and issued verbal threats. PO Peralta responded by ordering § 87(2)(b) to "get back." He did not recall identifying himself as a police officer in anyway. PO Peralta prepared to run from the 7th floor due to a concern that § 87(2)(b) would become physically violent. He grabbed his cellphone from his waistband so that it would not fall out when he ran. PO Peralta told § 87(2)(b) to get back and § 87(2)(b) entered his apartment. As PO Peralta was still concerned that § 87(2)(b) would become violent, PO Peralta fled down the stairs. He had no further interactions with § 87(2)(b). PO Peralta had no gun on his person during the incident. He had left both his on-duty gun and his off-duty gun in his locker the night before.

§ 87(2)(b) and PO Peralta were consistent that § 87(2)(b) posed a physical threat to PO Peralta in the hallway, as supported by § 87(2)(b). However, PO Peralta stated that he responded to this threat by ordering § 87(2)(b) to "get back," and at no point did he remove his gun and point his weapon at § 87(2)(b). Moreover, he denied having a weapon on his person during the incident as he stated he left both his on-duty gun and his off-duty gun in his locker the previous day. Both § 87(2)(b) and PO Peralta stated that PO Peralta had an object on or in his waistband. However, it is disputed whether this object was a gun or cellphone. § 87(2)(b) disputes that PO Peralta had a weapon and § 87(2)(b) could not be located for a statement.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Peralta has been a member of service for eight years and has been a subject in one other CCRB complaint, 201206609 (see officer history). No allegations were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.

§ 87(2)(b)

§ 87(2)(b)

[REDACTED]

- On December 10, 2018, a FOIL request was submitted online to the Office of the New York City Comptroller inquiring about any Notices of Claim regarding this incident. Once received, the results will be added to the case file.

Squad No.: 6

Investigator:	_____	<u>Inv. Benjamin Shelton</u>	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	<u>IM Jessica Peña</u>	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date